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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/563,198

01/23/2006

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05579-00350-US

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03/30/2010

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EXAMINER

AHVAZI, BIJAN

ART UNIT

PAPER NUMBER

1796

MAIL DATE

DELIVERY MODE

03/30/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DETAILED ACTION

1. This action is responsive to the amendment filed on March 19, 2010.
2. Claims 9-19 are pending.
3. Claims 9, 11 and 13 stand rejected under 35 U.S.C. 103(a) as being unpatentable over by Himeno *et al.* (Pat. No. 5,734,028) in view of Izutsu *et al.* (JP, 04-164969 (1992) Abstract) and further in view of in view Himeno *et al.* (Pat. No. 5,332,404).
4. Claims 10, 12, 14 stand rejected under 35 U.S.C. 103(a) as being unpatentable over by Himeno *et al.* (Pat. No. 5,734,028), Izutsu *et al.* (JP, 04-164969 (1992) Abstract) and Himeno *et al.* (Pat. No. 5,332,404) as applied to claim 9, 11 and 13 as above and further in view of Tsumura *et al.* (JP, 06-345989 A, machine translation).
5. Claims 15 and 16 stand rejected under 35 U.S.C. 103(a) as being unpatentable over by Himeno *et al.* (Pat. No. 5,734,028), Izutsu *et al.* (JP, 04-164969 (1992) Abstract), Himeno *et al.* (Pat. No. 5,332,404), and Tsumura *et al.* (JP, 06-345989 A, machine translation) as applied to claim 9, 10, 11, 12, 13 and 14 as above and further in view of Himeno *et al.* (Pat. No. 5,608,042).
6. Claims 17 and 18 stand rejected under 35 U.S.C. 103(a) as being unpatentable over by Himeno *et al.* (Pat. No. 5,734,028), Izutsu *et al.* (JP, 04-164969 (1992) Abstract), Himeno *et al.* (Pat. No. 5,332,404), Tsumura *et al.* (JP, 06-345989 A, machine translation), and Himeno *et al.* (Pat. No. 5,608,042) as applied to claim 9, 10, 11, 12, 13, 14, 15 and 16 as above and further in view of Akai *et al.* (Pat. No. 5, 824,118).
7. Claim 19 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Himeno *et al.* (Pat. No. 5,332,404).

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Response to Arguments

8. Applicant's arguments filed on March 19, 2010 have been fully considered but they are not persuasive. The declaration under 37 CFR 1.132 filed on 06/15/2009 by the applicant compared the three single dyes of the inventive mixture as they are all known dyestuffs and the mixture of dyes (2) and (3) which is disclosed in prior art as well. The applicant has compared the following:

1) Dyestuff which is an isomer of formulae (a1) and (a2),

2) Dyestuff of the formula (b),

3) Dyestuff of the formula (c),

4) Dyestuff Mixture A comprising: 75 % by weight of the dyestuff to formula (b) 25 % by weight of the Dyestuff of formula (c),

5) Dyestuff Mixture B comprising: 60 % by weight of the Dyestuff (a) 10% by weight of the Dyestuff (b) and 30 % by weight of the Dyestuff (c),

6) Dyestuff Mixture C comprising: 60 % by weight of the Dyestuff (a) 30% by weight of the Dyestuff (b) and 10 % by weight of the Dyestuff (c),

7) Dyestuff Mixture D comprising: 30 % by weight of the Dyestuff (a) 60% by weight of the Dyestuff (b) and 10 % by weight of the Dyestuff (c),

8) Dyestuff Mixture E comprising: 10 % by weight of the Dyestuff (a) 60% by weight of the Dyestuff (b) and 30 % by weight of the Dyestuff (c)

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These eight examples have 3 comparisons that are according to the prior art (examples 1-3) and one not covered by the claimed invention (example 4) Mixture A, Mixtures B-E (examples 5-8) are according to the claimed invention and show the use of a mixture containing 5 different percentages of Dyestuffs a, b and c having the specific ranges 10 to 60% by weight of Dyestuff a (note that Mixtures B and C contain 60%, while Mixture D contains 30% and Mixture E contains 10% by weight of Dyestuff a), 10 to 60% by weight of Dyestuff b (note that Mixture B contain 10%, while mixture C contains 30% and mixtures D and E contains 60% by weight of Dyestuff b), and 10 to 30% by weight of Dyestuff c (note that Mixtures B and E contain 30%, while mixtures C and D contain 10% by weight of Dyestuff c). Furthermore, the applicant believes that the dyestuff according to the invention are clearly commensurate in scope since the applicant has shown examples of dyestuff a at 10%, 30% and 60% by weight, shown examples of dyestuff b at 10%, 30% and 60% by weight, shown examples of dyestuff c at 10% and 30% by weight.

The Examiner respectfully disagrees. The declaration under 37 CFR 1.132 filed on 06/15/2009 is insufficient to overcome the rejection of claim 9-18 based upon reference applied under 35 U.S.C. 103 (a) as set forth in the last Office action because the applicants fail to illustrate the unexpected result by comparing the Example 7 of Himeno *et al.* (Pat. No. 5,734,028) with a mixture of compound (a) with compounds (b) and (c) at the same conditions. It is advised the unexpected results with respect to build up properties and the Integ values, the applicant should preformed the comparison the Example 7 of Himeno *et al.* with a mixture of compound (a) with compounds (b) and (c) at the same conditions.

Accordingly, in the view of the above discussion, the request for reconsideration has been considered but **does NOT** place the application in condition for allowance.

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Examiner Information

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bijan Ahvazi, Ph.D. whose telephone number is (571)270-3449. The examiner can normally be reached on M-F 8:0-5:0. (Off every other Friday).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Y. Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/BA/
Bijan Ahvazi
Examiner
Art Unit 1796

/Harold Y Pyon/
Supervisory Patent Examiner, Art Unit 1796

03/26/2010